

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARYL LAWRENCE STOKEN,

Defendant-Appellant.

UNPUBLISHED

January 4, 2007

No. 268959

Eaton Circuit Court

LC No. 05-020257-FH

Before: Meter, P.J., and O’Connell and Davis, JJ.

O’CONNELL, J. (*concurring*).

I concur with the majority opinion. I write separately to address defendant’s argument that ten prior drinking and driving offenses and his eleven and a half-page driving record are not substantial and compelling reasons to depart from the sentencing guidelines.

In *People v Hegwood*, 465 Mich 432, 439; 636 NW2d 127 (2001), the Michigan Supreme Court stated that “a ‘substantial and compelling reason’ must be construed to mean an ‘objective and verifiable’ reason that “‘keenly” *or* “irresistibly” grabs our attention.” [Emphasis added.]

In my opinion, ten drinking and driving offenses, in addition to an eleven and a half-page driving record, “keenly” *and* “irresistibly” grabs my attention. This pattern of behavior is both objective and verifiable and has clearly earned defendant his sentence departure.

I would affirm defendant’s conviction and sentence.

/s/ Peter D. O’Connell